

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

DANA BASS, individually and on behalf of
others similarly situated,

Plaintiffs-Petitioners,

v.

IMPERIAL FIRE & CASUALTY
INSURANCE COMPANY,

Defendants-Respondents.

Civil Case No.: 1:22-cv-00550

Judge: David C. Joseph

Magistrate Judge: Joseph H. L. Perez-Montes

PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff Dana Bass files as supplemental authority the recent order entered in *Buddington v. United Services Auto. Assoc.*, Case No. 22-cv-1566, Dkt. No. 51 (E.D. La. March 31, 2023) (attached as Exhibit 1). In *Buddington*, like here, the plaintiff sued for failure to pay necessary replacement costs (such as taxes and regulatory fees) as part of actual cash value of a total-loss vehicle. In *Buddington*, like here, the insurance company moved to dismiss, arguing that the replacement costs sought by the plaintiff were not included in the actual cash value of the vehicle either under the insurance policy or Louisiana law.

The *Buddington* court held that:

Plaintiffs’ claims are sufficiently pled to survive [the] 12(b)(6) attack. The breach of contract claims are plausible under the reasonable interpretation of the Policies posited by Plaintiffs. USAA’s own actions, in electing to limit their liability to ACV while voluntarily paying some, but not all, taxes and fees to Plaintiffs further muddies the waters of the Policies’ coverages. As such, whether the Regulatory Fees at issue are actually owed and whether USAA breached its obligations under the Policies remains to be determined at a later date. At this early stage in these proceedings, the Court is satisfied that Plaintiffs have asserted viable breach of contract.

Id. at p. 9. The *Buddington* opinion supports Plaintiff’s arguments in his response to Defendant’s Motion to Dismiss in this case, and Plaintiff respectfully request the Court consider this authority in resolving Defendant’s Motion.

Dated: March 31, 2023,

Respectfully submitted,

/s/ Stephen J. Herman

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CERTIFICATE OF SERVICE

HEREBY CERTIFY that on March 31, 2023, a true and correct copy of the foregoing was electronically filed with the Court's CM/ECF system and was thus served automatically upon all counsel of record in this matter.

/s/ Stephen J. Herman

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